THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10370 of 1998

Dated:15.06.2007

Between
A.Nageswara Rao

.....Petitioner

and

1. The State of Andhra Pradesh
Rep., by its Secretary, Home Department
Secretariat Buildings, Hyderabad
And others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10370 of 1998

ORDER:

This writ petition is filed seeking a Mandamus to declare the impugned order dated 19.3.1998 on the file of the 2nd respondent as arbitrary and illegal and violative of Rule 7 (4) of the Madras Home Guards Rules of 1948 apart from Articles 14, 16 and 311 of Constitution of India.

It appears that the petitioner was engaged as a Home Guard by the second respondent with effect from 26.11.1983 and he was allotted Home Guard No.194. The post of Home Guard is a honorary post. As and when need arises, the services of the petitioner will be utilized. The petitioner was paid honorarium of Rs.31/- per day. The second respondent has got over all control of

administration at District level. Since the income derived from the Home Guard duties is very meagre and the duties are for intermittent periods, he obtained dealership for distribution of essential commodities in Chirala town and was allotted shop No.23. He used to open shop for distribution of the scheduled commodities during the last week of every month as the stock allotment will be made during that period only. The fair price shop dealership never came in the way of discharging his duties as Home Guard. While that being so, the impugned order dated 19.3.1998 was issued removing him from the Home Guard organization stating that his business dealings are bringing adverse image to the Home Guard organization. According to the petitioner, no notice of any kind was issued to him before passing the impugned order. Therefore, the same is arbitrary and illegal, apart from being contrary to Articles 14 and 16 of the Constitution of

India and also suffers from gross violation of principles of natural justice. Hence, the same is liable to be set aside.

While admitting the writ petition on 21.4.1998 this Court granted interim suspension of the impugned order in WPMP No.12592 of 1998 and as such the petitioner has been continuing as Home Guard till date.

In the counter filed by the respondents, the averments that the petitioner was not put on notice and no enquiry was conducted against him for the alleged business being carried out by him which is said to have bringing down the image of the Home Guard Organization, are not denied.

Therefore, the impugned order suffers from gross violation of principles of natural justice. On this ground alone, the impugned order is liable to be set aside.

Accordingly, the writ petition is allowed and the impugned order is set aside. No costs.

15-06-2007

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